

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL KASTAN, AN INDIVIDUAL,  
Appellant,  
vs.  
ASHLEY BERKMAN, INDIVIDUALLY,  
Respondent.

No. 52482

**FILED**

**DEC 04 2009**

TRACIE K. LINDEMAN  
CLERK OF SUPREME COURT  
BY S. Younger  
DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment entered on a jury verdict in a tort action conducted under the short trial program. Eighth Judicial District Court, Clark County; John H. Pilkington, Short Trial Judge.

On appeal, appellant Michael Kastan argues that NRS 38.259(2)'s requirement that, when a party requests a trial de novo at the conclusion of mandatory nonbinding arbitration proceedings, the arbitrator's findings must be admitted during the new trial, violates his constitutional right to a jury trial. Kastan also argues that NRS 38.259(2) violates his right to equal protection under the law because the statute only applies to cases with an amount in controversy below a particular threshold and only applies in counties with population sizes above a particular threshold. See NRS 38.250; NRS 38.255. Finally, Kastan challenges the trial court's decision to admit medical bills as evidence.

### Constitutionality of NRS 38.259

In our recent opinion in Zamora v. Price, 125 Nev. \_\_\_, \_\_\_, 213 P.3d 490, 494-96 (2009), we concluded that NRS 38.259(2) does not violate a litigant's right to a jury trial and that the amount in controversy threshold does not violate a litigant's right to equal protection under the law. Having considered Kastan's arguments regarding the alleged violation of his right to a jury trial and the alleged equal protection violation based on the amount in controversy threshold in light of our decision in Zamora, we conclude that they lack merit. And with regard to Kastan's county population size equal protection clause argument, we conclude that the use of the population criterion here is rationally related to a legitimate purpose and does not create an odious or absurd distinction. County of Clark v. City of Las Vegas, 97 Nev. 260, 263-64, 628 P.2d 1120, 1122 (1981). Accordingly, we conclude that Kastan's constitutional challenges to NRS 38.259 lack merit.


### Admission of medical bills


While Kastan correctly notes that a parent who pays medical expenses on behalf of a minor has the right to recover those expenses, see Hogle v. Hall, 112 Nev. 599, 606, 916 P.2d 814, 819 (1996), he provides no authority in support of his argument that the admission of medical bills for the separate purpose of demonstrating pain and suffering by the minor constitutes an abuse of discretion by the trial court and compels reversal of the jury award. Having reviewed this argument, we conclude that Kastan has failed to demonstrate that any error in the admission of the medical bills "substantially affected" his rights. Hallmark v. Eldridge, 124 Nev. \_\_\_, \_\_\_, 189 P.3d 646, 654 (2008) (setting forth this


court's standard of review for claims of prejudice concerning errors in the admission of evidence and additionally explaining that appellant must demonstrate that except for the error, a different result could reasonably have been expected).

Accordingly, concluding that Kastan's appellate arguments lack merit, we

ORDER the judgment of the district court AFFIRMED.

  
\_\_\_\_\_, J.  
Cherry

  
\_\_\_\_\_, J.  
Saitta

  
\_\_\_\_\_, J.  
Gibbons

cc: John H. Pilkington, Short Trial Judge  
Carolyn Worrell, Settlement Judge  
Keith B. Gibson  
Bourgault & Harding  
Eighth District Court Clerk